

## **OPTIONS FOR ORGANIZING AND FINANCING COUNTYWIDE PUBLIC LIBRARY SERVICE**

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The following are the options available under California law for organizing and operating free countywide public library service in counties that include incorporated cities.

### *1. COUNTY FREE LIBRARY LAW* (Education Code Sections 19100-19180)

This is the organizational method most commonly used. It establishes under the Board of Supervisors a library that serves all areas that are not otherwise taxed for free library service (typically, pre-existing areas would be independent city libraries).

Most of the existing county libraries so organized had a dedicated tax rate prior to Prop. 13, and retain their prorata share of that rate. Most of the county libraries in rural counties did not levy a tax rate, and are primarily funded from the county general fund. Those with a tax rate are also eligible for county general funds.

### *2. CONTRACT WITH AN EXISTING LIBRARY* (Using Joint Exercise of Powers, Government Sections 6500 - 6578)

This method permits a jurisdiction that does not wish to administer its own library service, to make service available to its residents by agreement with one or more jurisdictions that already provide library services to their own residents. Typical examples are the four "City-County" libraries (e.g., Stockton-San Joaquin County Library), in which the City has an established library, and the county contracts with it to provide and administer the county library service in the remainder of the county not served by city libraries. Typically, the City-appointed Librarian is the administrator, reporting both to the City's Board of Library Trustees or other City entity for the City service, and to the County Board of Supervisors for the county service. Employees in branch libraries in the county area may be city employees or county employees, depending on the local arrangement.

Funding is by whatever means is available. Many of the counties in these arrangements had previously "established" a county library, and have the same funding options listed under County Free Libraries above. The counties involved in the four existing city-county libraries have a library tax rate.

### *3. LIBRARY DISTRICT* (Education Code Sections 18400-19352)

This available method establishes an independent special district within such boundary lines as may be desired (e.g., county boundaries). Voters directly elect a Board of Trustees whose sole responsibility is to govern the district. One county (Del Norte County Library) is so organized.

If the district replaces existing tax-funded library service, there is transferred to the new district the property tax rate that would have been required to underwrite the budget of the former library service provider.

#### *4. FORMATION OF A SEPARATE AGENCY UNDER JOINT EXERCISE OF POWERS*

Under this method, all jurisdictions responsible for library service within the county jointly create a separate library agency to be the single service provider for all. The agreement establishes the governance (perhaps a separate Board of Directors, appointed by the signatory jurisdictions under a negotiated representational formula). Two counties (Sonoma County Library and Sacramento Public Library) are so organized.

The agreement may provide for contribution by each signatory, which in turn uses whatever funds are available. Examples of available funding ability might include:

- For a county signatory, the same funding options listed under County Free Libraries above.
- For a charter city, if its charter provided for a library tax, that tax rate would be available.
- For any city, e.g., excise taxes or other taxes not available to counties, without requiring voter approval.

#### *5. COUNTY SERVICE AREA (Government Code Sections 25210.1 - 25216)*

This is a method of financing County Library service, not organizing it.

The County Service Area law (CSA) provides for "extended library facilities and services" under the Board of Supervisors. There must be public proceedings that result in a finding that the proposed services are indeed extended (that is, not the normal and usual services). Any incorporated cities included must agree. To disallow creation of the Area, 10% of the voters must first overtly petition against it in order to force an election, and at the election a majority must vote against it.

The law permits levying services charges in lieu of or supplemental to tax revenues. Otherwise, funding for a County Service Area would have to be from a "special tax" as described later in this paper.

Although some authorities hold that a County Service Area may be used only to fund facilities (and their maintenance), not the services therefrom provided, several counties have adopted benefit assessment proceedings for local library operating support. In addition, under the CSA authority, a third county, the Los Angeles County Board of Supervisors in 1994 adopted on its own motion a service charge formula in conjunction with formation of a Mello-Roos district (see below), although it has deferred levying the charge.

#### *6. TRANSFER TO COUNTY BOARD OF EDUCATION (Education Code Section 1080(c))*

Responsibility for operating a county library organized under the County Free Library Law can, by agreement between the Board of Supervisors and the County Board of Education, be transferred to the latter. One county library, Mono County, is so operated.

#### *7. SPECIAL LEGISLATION*

Shasta County sought and gained special legislation to remove the library from the direct control of the Board of Supervisors. Chapter 406, Statutes of 1990, enacts the Shasta County Regional Library Facilities and Services Act (Government Code §§26170-26172.16). The Act provides for a Shasta County Regional Library Facilities and Services Commission. Commissioners are appointed by the board of supervisors, city councils, county board of education, and by the commission itself. Funding for the library is unclear at this time.

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<sup>1</sup> For details, contact Cy Silver at the California State Library.

#### 8. *SPECIAL TAXES* (Constitution Article XIII A)

In addition to the specific funding methods outlined elsewhere in this paper, the parent jurisdiction of any library organized under the following methods can put before the voters a "special tax" election for operation of libraries organized under any of those methods as long as the tax base is not the ad valorem (assessed value) of real property. A two-thirds vote is required to adopt the tax. Typical bases for special taxes are parcels; dwelling units; or square feet of residential, commercial or industrial property, with different rates for each. Various classes of taxpayers can be excluded from the taxation if desired. The State Library has a summary of special taxes adopted for libraries. Regions with three county libraries are so funded.

Unless otherwise indicated below, income from a special tax falls within the jurisdiction's Gann limit (Constitution Article XIII B).

#### 9. *MELLO-ROOS COMMUNITY FACILITIES ACT OF 1982* (Government Code Sections 53311-53365.7.)

Mello-Roos is not a method of organizing service, but of financing it (and of financing capital projects as well). A Mello-Roos district is a financing shell, under the Board of Supervisors in this example. Funding would require two-thirds voter approval of a "special tax," as described at the beginning of this paper. Since a Mello-Roos district is a new government entity, it has its own Gann limit separate from that of the sponsoring jurisdiction. After formation of the Mello-Roos district by the Board of Supervisors, an election will have two elements: approval of the special tax, and of a Gann limit for the district. One county library, Modoc County, is so financed.

In Los Angeles County, the Board of Supervisors has established a Mello-Roos district in which benefit assessment can be levied, under provisions of Mello-Roos and County Service Area (see above) laws, for support of library operations in the unincorporated area and in cities which agree to the assessment.

#### 10. *SALES TAX* (Revenue and Taxation Code Section 7285.5)

This statutory method, which provided for a half-cent or alternatively a quarter-cent sales tax dedicated to library use with approval by a simple majority (50%) of the votes in any county, appears to have been made irrelevant by a December 1991 California Supreme Court decision, *Rider v. County of San Diego*. The Court found that a two-thirds vote was required. However, a majority vote remains authorized for non-earmarked moneys that go into the general fund subject to the budget process, although voters willing to approve such a tax to support libraries may lack confidence that the governing bodies involved will in fact allocate the proceeds to the library and not divert some or all of it to other pressing local government concerns.